STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 30, 2009
v	No. 285255 Wayne Circuit Court
RUQAYYAH KARIMA BOBO, Defendant-Appellant.	LC No. 07-023342-FH

Before: Owens, P.J., and Servitto and Gleicher, JJ.

PER CURIAM.

Defendant appeals as of right her bench trial convictions of three counts of felonious assault, MCL 750.82. Defendant was sentenced to one year of probation for each count. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214 (E).

Defendant claims on appeal that there was insufficient evidence for the trial court to reasonably determine that each of the elements of felonious assault were proved beyond a reasonable doubt. We disagree.

A challenge to the sufficiency of the evidence in a bench trial is reviewed "de novo and in a light most favorable to the prosecution to determine whether the trial court could have found the essential elements of the crime were proved beyond a reasonable doubt." *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000), aff'd 466 Mich 39 (2002). "All conflicts with regard to the evidence must be resolved in favor of the prosecution. Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of the crime." *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005) (internal citations omitted).

Defendant was convicted of feloniously assaulting Shantaniese Gibbs, Tanesha Ciers, and Lakreesha Ciers ("the girls"). "The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery." *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999). An assault is "either an attempt to commit a battery or an unlawful act which places another in reasonable apprehension of receiving an immediate battery." *People v Reeves*, 458 Mich 236, 240; 580 NW2d 433 (1998) (internal quotations omitted). Engaging in "threatening conduct designed to put another in reasonable apprehension of an immediate battery" is sufficient to meet the third, *mens rea*, element. *Id.* at 240-241.

Defendant contends there is insufficient evidence to show that the first element was met, i.e., that the girls were actually put in apprehension of receiving an immediate battery. The issue becomes whether the unlawful act of brandishing a shotgun placed each of the girls in reasonable apprehension of being shot. Both Shantaniese and Tanesha testified that they felt "scared" while defendant was pointing the shotgun at them and yelling, "I will go to jail for killing one of you bitches." Though not explicitly stated by either witness what they were scared *of*, it is easily inferred that they were scared, or had reasonable apprehension, of being immediately shot. Therefore, when viewed in a light most favorable to the prosecution, there is sufficient evidence that the trial court could have found beyond a reasonable doubt that the first element is met for the counts involving Shantaniese and Tanesha.

Lakreesha did not testify regarding her own state of mind during the incident with defendant. However, pursuant to *Wilkens, supra* at 738, circumstantial evidence and reasonable inferences can be used to ascertain if she actually was in apprehension of being shot. Lakreesha testified that she was the one who called the police and did so only after defendant pointed the gun at the girls. It is reasonable to infer that she called the authorities because she was scared of being immediately shot. Also, Lakreesha testified that the girls were on the Ciers' porch during this incident and only entered the Ciers' house after defendant pointed the shotgun and issued the threats. Again, a reasonable inference is that Lakreesha retreated from her front porch and entered her house at that time because of the apprehension of being shot by defendant. Therefore, viewing this evidence in a light most favorable to the prosecution could allow the fact-finder to determine beyond a reasonable doubt that defendant assaulted Lakreesha.

There is also sufficient evidence to prove that the last two elements are easily met. Regarding whether a dangerous weapon was used, there is no dispute that defendant wielded a shotgun, a known dangerous weapon, during the confrontation with the girls. Also, defendant intended to put the girls in reasonable apprehension of being shot. In addition to the girls' testimony about having the shotgun cocked and aimed at them, defendant's own testimony is enough to support this element:

> *Q.* Are you trying to scare all these girls?
>
> *A.* Yes. I have kids their age. I'm not going to shoot anybody the same age as my children. I wouldn't do that to nobody anyway.
>
> *Q.* Okay. You wouldn't shoot them but you're certainly –
>
> *A.* I was scaring them, yeah. They was threatening me and my kids.
>
> *Q.* And you're scaring them with that gun, right?
>
> *A.* Yes.

Therefore, there is sufficient evidence to allow a determination beyond a reasonable doubt that the last two elements are met as well.

Defendant's main argument is that the girls were never in apprehension of being shot, and therefore, there can be no assault. If there were no apprehension, then this would be correct.

Defendant relies on the fact that all the girls testified regarding seeing the shotgun-wielding defendant approach from approximately four houses away while walking down the middle of the street. Defendant maintains that if the girls were truly concerned about being shot, then they would not have decided to stay outside on the porch the entire time that defendant was approaching. However, this is only part of the picture: the girls testified that they called the police and left the front porch only *after defendant cocked and aimed the shotgun at them*. Viewing this evidence in a light most favorable to the prosecution reveals that the girls were not put in apprehension of being shot until the shotgun was cocked and leveled at them; thus, the fact that they did not take cover beforehand is immaterial.

We hold that the evidence presented at trial was sufficient to support defendant's felonious assault convictions.

Affirmed.

/s/ Donald S. Owens
/s/ Deborah A. Servitto
/s/ Elizabeth L. Gleicher